

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 444**

Introduced by Tyson, 19

Read first time January 14, 1999

Committee: Business and Labor

A BILL

- 1 FOR AN ACT relating to labor; to amend section 48-818, Reissue
- 2 Revised Statutes of Nebraska; to adopt the Nebraska
- 3 Municipal Comparability Act; to harmonize provisions; to
- 4 repeal the original section; and to declare an emergency.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1.   Sections 1 to 6 of this act shall be known  
2   and may be cited as the Nebraska Municipal Comparability Act.

3           Sec. 2.   The Legislature finds and declares that it is  
4   the public policy of the State of Nebraska and the purpose of the  
5   Nebraska Municipal Comparability Act to promote harmonious,  
6   peaceful, and cooperative relationships between municipal  
7   government and its employees and to protect the public by assuring  
8   effective and orderly operations of municipal government. Such  
9   policy is best effectuated by: (1) Recognizing the right of  
10   municipal employers and employees to utilize the protection of the  
11   Industrial Relations Act and (2) providing statutory guidelines to  
12   the Commission of Industrial Relations which recognize the unique  
13   nature of municipal comparability cases.

14           Sec. 3.   For the purposes of the Nebraska Municipal  
15   Comparability Act:

16           (1) Array selection means the process of selecting  
17   employers in a local labor market array or in a concentric circle  
18   array or both;

19           (2) Array member means an employer included in a local  
20   labor market array or a concentric circle array;

21           (3) Commission means the Commission of Industrial  
22   Relations;

23           (4) Concentric circle array means a group of employers  
24   located within an established radius of the municipality which is  
25   the subject of the litigation. A concentric circle array shall be  
26   formed by employers within the closest geographical circle to the  
27   municipality which is the subject of the litigation and shall have  
28   a minimum of three employers;

1           (5) Employer means either a public sector or private  
2           sector employer;

3           (6) Historic relationship means the percentage  
4           relationship existing between job positions for employees of the  
5           municipality which is the subject of the litigation for either  
6           wages or benefits which can be calculated on a mean or median basis  
7           for a minimum of three years;

8           (7) Industrial dispute has the same meaning as in section  
9           48-801;

10           (8) Job match means the use for comparison purposes of  
11           job positions of employees of an array member which has no more  
12           than a fifteen-percent degree of difference when compared to job  
13           positions of employees of the municipality which is the subject of  
14           the litigation. A job match analysis shall include both an  
15           analysis of duties performed and time spent performing those  
16           duties;

17           (9) Local labor market array means a group of employers  
18           having a place of business which is located within either the  
19           corporate limits or the range of zoning authority of the  
20           municipality which is the subject of the litigation;

21           (10) Metropolitan area means any area designated by the  
22           United States Office of Management and Budget for which statistics  
23           are maintained; and

24           (11) Prevalent means either:

25           (a) The midpoint between the arithmetic mean and  
26           arithmetic median of a particular wage or benefit; or

27           (b) The mode of a particular wage or benefit if a  
28           majority of the array members provide such wage or benefit to their

1 employees.

2           Sec. 4.   The Nebraska Municipal Comparability Act is  
3 cumulative to the Industrial Relations Act, except when otherwise  
4 specifically provided or when inconsistent with the Industrial  
5 Relations Act, in which case the Nebraska Municipal Comparability  
6 Act shall prevail.

7           Nebraska municipalities, their employees, employee  
8 organizations, and exclusive collective-bargaining agents shall  
9 have all of the rights and responsibilities afforded employers,  
10 employees, employee organizations, and exclusive  
11 collective-bargaining agents pursuant to the Industrial Relations  
12 Act to the extent that such act is not inconsistent with the  
13 Nebraska Municipal Comparability Act.

14           Sec. 5.   (1) In industrial disputes involving municipal  
15 employees, the Commission of Industrial Relations shall make an  
16 array selection in accordance with the following requirements:

17           (a) The commission shall designate an array of local  
18 labor market employers, concentric circle array employers, or both;

19           (b) If a local labor market array is used, after evidence  
20 has been presented with respect to same or similar work, the  
21 commission shall presume that same or similar working conditions  
22 exist for all employees of local employers unless evidence is  
23 presented showing sufficient differences in working conditions to  
24 exclude any employees of any local employer from the array;

25           (c) If a concentric circle array is used, the commission  
26 shall ensure that all prospective array members in the concentric  
27 circle are included in the array which meet the population  
28 guidelines and metropolitan area guidelines established in the

1 Nebraska Municipal Comparability Act;

2 (d) For a city of the first or second class or village,  
3 an array shall not include an array member located outside the  
4 State of Nebraska;

5 (e) An array shall not include an array member located in  
6 a metropolitan area if the municipality which is the subject of the  
7 litigation is not included in a metropolitan area; and

8 (f) An array shall not include an array member located in  
9 an area with a population of more than double or less than one-half  
10 the city population or the metropolitan area population of the  
11 municipality which is the subject of the litigation.

12 (2) In industrial disputes involving municipal employees,  
13 the commission shall compare same or similar work in accordance  
14 with the following requirements:

15 (a) The commission shall utilize for comparison purposes  
16 only job positions of employees of an array member which constitute  
17 a job match; and

18 (b) The commission shall utilize a historic relationship  
19 for a job position for which there are not at least three job  
20 matches in either the local labor market array, the concentric  
21 circle array, or both.

22 (3) In analyzing total compensation in industrial  
23 disputes involving municipal employees, the commission shall make  
24 findings and orders in accordance with the following requirements:

25 (a) The commission shall order the municipality which is  
26 the subject of the litigation to provide wage and benefit levels  
27 comparable to the prevalent wage and benefit levels provided by the  
28 selected array members based upon an analysis of total

1 compensation;

2 (b) In considering total compensation, the commission  
3 shall consider wages and benefits both above and below prevalent  
4 levels;

5 (c) The commission shall order a reduction in wages and  
6 benefits which are above prevalent levels or set off wages and  
7 benefits which are above prevalent levels on a dollar-for-dollar  
8 basis against any wages or benefits which are below prevalent  
9 levels, or both; and

10 (d) The commission shall adjust the total compensation to  
11 reflect published economic variable statistics which are shown to  
12 have a bearing on wages. This published information may include  
13 the most recent published information on the percentage of  
14 unionization and degree of manufacturing. Such published  
15 information on a statewide basis shall be acceptable if municipal  
16 or metropolitan area figures are not available.

17 (4) The date for comparison in all municipal cases before  
18 the commission shall be the first day of the fiscal year in  
19 question for the municipality which is the subject of the  
20 litigation.

21 (5) Any order of the commission ordering increases or  
22 decreases in wages or benefits for municipal employees shall be  
23 retroactive to the first day of the fiscal year in dispute.

24 Sec. 6. (1) No more than the greater of three percent of  
25 the authorized levy limit of any municipality or five percent of  
26 the personnel portion of the fiscal year budget of any municipality  
27 may be used to fund Commission of Industrial Relations orders in  
28 any fiscal year beginning on or after July 1, 1999.

1           (2) Any unfunded portion of any commission order shall be  
2 deferred to succeeding fiscal years and shall be subject to the  
3 same limitation. Any unfunded portion of any commission order  
4 deferred to succeeding fiscal years shall be paid with interest at  
5 the rate of five percent.

6           (3) A municipality may choose to exceed the limits set  
7 forth in this section as long as such action does not violate any  
8 other limitations imposed by law.

9           Sec. 7. Section 48-818, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-818. Except as provided in the State Employees  
12 Collective Bargaining Act and the Nebraska Municipal Comparability  
13 Act, the findings and order or orders may establish or alter the  
14 scale of wages, hours of labor, or conditions of employment, or any  
15 one or more of the same. In making such findings and order or  
16 orders, the Commission of Industrial Relations shall establish  
17 rates of pay and conditions of employment which are comparable to  
18 the prevalent wage rates paid and conditions of employment  
19 maintained for the same or similar work of workers exhibiting like  
20 or similar skills under the same or similar working conditions. In  
21 establishing wage rates the commission shall take into  
22 consideration the overall compensation presently received by the  
23 employees, having regard not only to wages for time actually worked  
24 but also to wages for time not worked, including vacations,  
25 holidays, and other excused time, and all benefits received,  
26 including insurance and pensions, and the continuity and stability  
27 of employment enjoyed by the employees. Any order or orders  
28 entered may be modified on the commission's own motion or on

1 application by any of the parties affected, but only upon a showing  
2 of a change in the conditions from those prevailing at the time the  
3 original order was entered.

4 In industrial disputes involving municipal employees, the  
5 Nebraska Municipal Comparability Act shall apply.

6 Sec. 8. Original section 48-818, Reissue Revised  
7 Statutes of Nebraska, is repealed.

8 Sec. 9. Since an emergency exists, this act takes effect  
9 when passed and approved according to law.